

Title : User Definable Transition Tool  
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**Mail Stop Appeal Brief Patents**

Commissioner for Patents  
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**APPEAL BRIEF**

This is an appeal from the rejection of claims 1-35 in the Final Office Action dated 27 March 2007.

**TABLE OF CONTENTS**

I.	Real Party in Interest .....	3
II.	Related Appeals and Interferences .....	3
III.	Status of Claims.....	3
IV.	Status of Amendments .....	3
V.	Summary of Claimed Subject Matter .....	3
A.	Concise Explanation of Independent Claim 1 .....	3
B.	Concise Explanation of Independent Claim 14.....	4
C.	Concise Explanation of Independent Claim 22.....	4
D.	Concise Explanation of Independent Claim 28.....	5
VI.	Grounds of Rejection to be Reviewed on Appeal.....	5
VII.	Argument.....	6
A.	Section 112, First Paragraph, Rejection of Claims 1-21 .....	6
B.	Section 101 Rejection of Claims 1-21 .....	8
C.	Section 102 Rejection of Claims 1-4, 6-8, 11-12, and 14-20 .....	9
1.	Discussion of Newman.....	9
2.	Discussion of Independent Claims 1 and 14.....	9
D.	Section 103 Rejection of Claims 22, 26-28, and 34-35.....	11
1.	Discussion of Newman.....	11
2.	Discussion of Independent Claims 22 and 28 .....	11
E.	Final Remarks.....	12
VIII.	Claims Appendix .....	14
IX.	Evidence Appendix.....	21
X.	Related Proceedings Appendix .....	22

**I. REAL PARTY IN INTEREST**

Apple Inc. is the real party in interest.

**II. RELATED APPEALS AND INTERFERENCES**

None.

**III. STATUS OF CLAIMS**

Claims 1-35 are rejected. Claims 1-35 are appealed.

**IV. STATUS OF AMENDMENTS**

None filed.

**V. SUMMARY OF CLAIMED SUBJECT MATTER**

This section provides a concise explanation of the subject matter defined in each independent claim involved in the appeal, referring to the specification by paragraph and line number and to the drawings by reference characters as required by 37 C.F.R. 41.37(c)(l)(v). Appellant's citation to passages in the specification and drawings for each claim element does not imply that the limitations from the specification and drawings should be read into the corresponding claim element.

**A. Concise Explanation of Independent Claim 1**

Independent claim 1 is directed to a method to specify a multimedia transition, comprising identifying a plurality of multimedia assets that define a transition ([0020], [0036] to [0038], [0041], and [0045] to [0047]; 105 in FIG. 1; and FIG. 5), wherein at least one of the plurality of multimedia assets is user-supplied independent of any

multimedia assets provided by a video editing application ([0020] and [0028] to [0029]); identifying a source multimedia object ([0021], [0036] to [0038], and [0041]; 110 in FIG. 1; FIG. 3); identifying a target multimedia object ([0021], [0036] to [0038], and [0041]; 110 in FIG. 1; and FIG. 4); compositing the multimedia assets that define the transition with the source and target multimedia objects to create a result ([0022], [0023] to [0026], and [0042] to [0044]); 115 in FIG. 1; and 215 and 220 in FIG. 2); and making the result available for use by the video editing application ([0030] and [0039] to [0043]).

#### **B. Concise Explanation of Independent Claim 14**

Independent claim 14 is directed to a program storage device encoding machine readable instructions of a video editing application. The instructions are for causing a programmable control device to: identify a plurality of multimedia assets that define a transition ([0020], [0036] to [0038], [0041], and [0045] to [0047]; 105 in FIG. 1; and FIG. 5), wherein at least one of the plurality of multimedia assets is user-supplied independent of any multimedia assets provided by the video editing application ([0020] and [0028] to [0029]); identify a source multimedia object ([0021], [0036] to [0038], and [0041]; 110 in FIG. 1; FIG. 3); identify a target multimedia object ([0021], [0036] to [0038], and [0041]; 110 in FIG. 1; and FIG. 4); composite the multimedia assets that define the transition with the source and target multimedia objects to create a result ([0022], [0023] to [0026], and [0042] to [0044]); 115 in FIG. 1; and 215 and 220 in FIG. 2); and make the result available for use by the video editing application ([0030] and [0039] to [0043]).

#### **C. Concise Explanation of Independent Claim 22**

Independent claim 22 is directed to a method for generating a user-defined transformation using a video editing application. The method includes: identifying a first movie that is independent of any movie provided by the video editing application ([0020] and [0028] to [0029]); identifying an x-asset key that is independent of any x-

asset key provided by the video editing application, wherein the x-asset key comprises at least one second movie([0020], [0028] to [0029], [0036] to [0038], [0041], and [0045] to [0047]; 105 in FIG. 1; and FIG. 5); and compositing a transformation by combining the first movie and the second movie in accordance with the x-asset key ([0022], [0023] to [0026], and [0042] to [0044]); 115 in FIG. 1; and 215 and 220 in FIG. 2).

#### **D. Concise Explanation of Independent Claim 28**

Independent claim 28 is directed to a method for generating a user-defined transition using a video editing application. The method includes: identifying first and second image frames that are independent of any image frames provided by the video editing application ([0020] to [0021], [0028] to [0029], [0036] to [0038], and [0041]; 110 in FIG. 1; FIG. 3, and FIG. 4); identifying an x-asset key that is independent of any x-asset key provided by the video editing application, wherein the x-asset key comprises at least one movie([0020], [0028] to [0029], [0036] to [0038], [0041], and [0045] to [0047]; 105 in FIG. 1; and FIG. 5); and compositing the first image frame, the second image frame and each frame of the movie in accordance with the x-asset key using the video editing application ([0022], [0023] to [0026], and [0042] to [0044]); 115 in FIG. 1; and 215 and 220 in FIG. 2).

### **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

**A.** Claims 1-21 stand rejected under 35 U.S.C. § 112, first paragraph, for allegedly failing to comply with the written description requirement.

**B.** Claims 1-21 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter.

**C.** Claims 1-4, 6-8, 11-12, and 14-20 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by US 6,154,600 ("Newman").

**D.** Claims 22, 26-28, and 34-35 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Newman.

## **VII. ARGUMENT**

### **A. Section 112, First Paragraph, Rejection of Claims 1-21**

Claims 1-21 stand rejected under 35 U.S.C. § 112, first paragraph, for allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the specification was filed, had possession of the claimed invention. The particular subject matter involved in the rejection relates to the recitation of “at least one of the plurality of multimedia assets is user-supplied independent of any multimedia assets provided by a video editing application” in independent claims 1 and 14.

As basis for the rejection, the Examiner contends that the portions of Appellant’s specification cited in support of the claimed subject matter does not provide clarity in his view to its meaning. This is insufficient reasoning and evidence to explain why a person skilled in the art would not recognize a description in the original specification of the invention defined by the claim, and the rejection should be withdrawn. More correctly, the specification as filed explicitly supports the claimed subject matter that a multimedia asset defining a transition is user-supplied independent of any multimedia assets provided by a video editing application.

In the context of claims 1 and 14, for example, a plurality of multimedia assets are identified that define a transition. At least one of the multimedia assets is user-supplied independent of any multimedia assets provided by a video editing application. These multimedia assets are composited with a source object and a target object to create a result, which is made available to the video editing application. As discussed in the specification:

Initially a user identifies all those assets needed to implement the desired transition (block 105). In accordance with the invention, at least one of the assets so identified is user-supplied. For example, if the transition requires an image other than the start or end image to be displayed, an asset movie is needed – such movie could be generated and supplied by the user. That is, the user is not restricted to predefined transition images, movies, or effects.

*Present Specification at Paragraph [0020]*

Thus, the claimed subject matter that at least one of the plurality of multimedia assets is user-supplied independent of any multimedia assets provided by a video editing application refers, by way of example, to an asset movie generated and supplied by the user and not restricted to predefined transition images, movies, or effects associated with a video editing application.

By way of another example, the specification shows and describes how a user can have an asset movie (flying/rotating DVD image in FIG. 5) generated and supplied by a user and how the user can use that asset movie for a transition between a start image (image of oval rings in FIG. 3) and an end image (image of straight lines in FIG. 4). *See* paragraph [0028]. As the specification indicates, the user-supplied asset movie (flying/rotating DVD image in FIG. 5) can be any movie or image that the user has and wants to use during the transition from the start image to the end image. Moreover, the asset movie is unlike asset movies available in prior art video editing applications, which are limited to the movies or clips preinstalled within the video editing program. *See* Paragraph [0028].

These examples from the specification show that the claimed subject matter related to “at least one of the plurality of multimedia assets is user-supplied independent of any multimedia assets provided by a video editing application” was explicitly described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the specification was filed, had

possession of the claimed invention. Accordingly, Appellant respectfully requests that the Board reverse the rejection of claims 1-21 under 35 U.S.C. § 112, first paragraph.

**B. Section 101 Rejection of Claims 1-21**

Claims 1-21 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. As basis for the rejection, the Examiner contends that “[t]he claims fail to produce a tangible result because making a result available to a software application does not make it tangible.” *Final Office Action* at page 3. This is an improper basis for a rejection under 35 U.S.C. § 101, and the rejection should be withdrawn. More correctly, the claimed subject matter produces a tangible result because compositing multimedia assets that define a transition with target and source multimedia objects and making that result available for use by a video editing application is a practical application that produces a real-world result. Further, the generation of a video file or image sequence is itself a tangible item as it can be represented as the collection of binary values stored on a storage device.

The “Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility” (OG Notices November 22, 2005) define the tangible requirement for statutory subject matter. As stated therein, “[t]he tangible requirement does not necessarily mean that a claim must either be tied to a particular machine or apparatus or must operate to change articles or materials to a different state or thing. However, the tangible requirement does require that the claim must recite more than a Sec. 101 judicial exception, in that the process claim must set forth a practical application of that Sec. 101 judicial exception to produce a real-world result...In other words, the opposite meaning of ‘tangible’ is ‘abstract.’”

For Appellant’s claims 1-21 to be directed to non-statutory subject matter under this, the correct, definition these claims would have to produce an abstract result as opposed to a real-world result produced by a practical application. This is not the case. Appellant’s independent claims 1 and 14 both involve the practical application of video editing. In this practical application, the claimed subject matter creates a



composite that combines multimedia assets (each a “tangible” item) that define a transition with source and target multimedia objects and makes that composited result available for use by a video editing application. Creating such a multimedia composite and making it available to a video editing application is not an abstract result and is, instead, a real-world result within the practical application of video editing. Accordingly, Appellant respectfully requests that the Board reverse the rejection of claims 1-21 under 35 U.S.C. § 101.

**C. Section 102 Rejection of Claims 1-4, 6-8, 11-12, and 14-20**

Claims 1-4, 6-8, 11-12, and 14-20 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by US 6,154,600 (“Newman”).

1. Discussion of Newman

Newman discloses an editing system. To perform a transition between first and second sequences of frames, a non-linear editor (200; Fig. 5) responds to a user's input and creates an alpha frame, which describes how to combine the first and second frames so as to form the transition. *See* Newman at col. 9, ll. 32-44. At points in the disclosure, Newman discloses that the system can select default transitions, which thereby correspond to default alpha frames describing how to combine frames to form a default transition between captured hypermedia. *See* Newman at col. 14, ll. 15-18; col. 15, ll. 26-29; col. 17, ll. 7-12. At other points in the disclosure, Newman discloses that a user can select a provided transition in a transition GUI (470) and drop it in a storyboard between a pair of clips to create the transition between the clips. *See* Newman at col. 16, ll. 4-20, and Fig. 11. Thus, Newman discloses default or provided transitions that are merely selected by the system or a user.

2. Discussion of Independent Claims 1 and 14

Independent claims 1 and 14 call for identifying a plurality of multimedia assets that define a transition, wherein ***at least one of the plurality of multimedia assets is user-supplied independent of any multimedia assets provided by a***

***video editing application.*** See independent claims 1 and 14. In the context of Appellant's claims, a result is created by compositing a source multimedia object, a target multimedia object, and the transition defined by multimedia assets where at least one of the assets is supplied by the user independent of any multimedia assets provided by a video editing application. This is simply not the case in the disclosure of Newman.

Newman does not disclose transitions *supplied* by a user *independent* of any multimedia assets provided by a video editing application. Rather, the transitions in Newman are provided by an editor in the form of default transitions or transitions in a GUI, and these provided transitions can be used between hypermedia supplied by the user. In stark contrast, Appellant's claims call for at least one of the multimedia assets that define a transition to be user-supplied and not a provided transition of such an editor. Therefore, Newman fails to teach or suggest each claimed element in independent claims 1 and 14.

Despite the differences between Newman and independent claims 1 and 14, the Examiner appears to have misinterpreted the disclosure of Newman because the Examiner seems to imply that the captured hypermedia discussed in Newman defines a transition. For example, the Examiner states that "Newman teaches a user can capture hypermedia from real-time and on-line sources as well as off-line sources which is independent of multimedia assets provided by a video editing application." *Final Office Action* at page 27. Elsewhere, the Examiner states that "Applicant further argues that Newman discloses providing transitions selected by a user but not supplied by the user. If a user captures hypermedia from an on-line or off-line source, the user has supplied the multimedia asset. Therefore, the Examiner respectfully disagrees with Applicant's rationale." *Final Office Action* at page 27. However, the captured hypermedia as disclosed in Newman does not define a transition in the same way Appellant's claims call for multimedia assets that define a transition. Rather, the captured hypermedia in Newman is combined with alpha frames that describe how to combine frame sequences of the captured hypermedia. Thus, the alpha frames—not the hypermedia—define a

transition. The captured hypermedia simply refers to source and target media to be edited with one of Newman's provided transitions. As noted above, Newman discloses provided transitions in the form of default transitions selected by the system or selected by a user in a transition GUI (470).

Because Newman fails to teach or suggest each claimed element of independent claims 1 and 14, Newman cannot and does not anticipate independent claims 1 and 14. Accordingly, Appellant respectfully requests that the Board reverse the rejection of claims 1-4, 6, 11-12, and 14-20 under 35 U.S.C. § 102(b).

#### **D. Section 103 Rejection of Claims 22, 26-28, and 34-35**

Claims 22, 26-28, and 34-35 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Newman.

##### **1. Discussion of Newman**

See Section C(1) above.

##### **2. Discussion of Independent Claims 22 and 28**

Independent claim 22 calls for "***identifying an x-asset key that is independent of any x-asset key provided by the video editing application***, wherein the x-asset key comprises at least one second movie" and calls for "compositing a transformation by combining the first movie and the second movie in accordance with the x-asset key." Independent claim 28 calls for "***identifying an x-asset key that is independent of any x-asset key provided by the video editing application***, wherein the x-asset key comprises at least one movie" and calls for "compositing the first image frame, the second image frame and each frame of the movie in accordance with the x-asset key using the video editing application."

Newman fails to teach or fairly suggest an x-asset key (comprising at least one movie) that is used to composite a transformation combining movies (or compositing frames) and that is independent of any x-asset key provided by a video editing application. Rather, Newman discloses that transitions provided as part of an editor are

merely *selected* by the system or by a user to generate a transition between captured hypermedia. *See* Section C(2) above. In other words, even though Newman may disclose that a user captures hypermedia from on-line and off-lines sources, this captured hypermedia represents target and source material to be edited in an editor with transitions – the captured hypermedia may not be used to form transitions as claimed. In Newman, the system selects a default transition, or the user selects a transition provided by a transition GUI (470). Therefore, the transitions in Newman are not user-supplied transitions independent of any assets provided by a video editing application. Because Newman fails to teach or suggest each claimed element of independent claims 22 and 28, Newman does not and cannot render independent claims 22 and 28 as obvious. Accordingly, Appellant respectfully requests that the Board reverse the rejection of claims 22, 26-28, and 34-35 under 35 U.S.C. § 103(a).

#### **E. Final Remarks**

First, claims 1-21 are fully supported by the specification as filed because the specification describes how a user can use a multimedia asset, such as a user-generated movie or video clip, for a transition that is independent of any transition provided by a video editing application. For these reasons, the Board should reverse the rejection of claims 1-21 under 35 U.S.C. § 112, first paragraph.

Second, claims 1-21 are directed to statutory subject matter because claims 1-21 are directed to a practical application of video editing and produce a real-world result by compositing source and target media objects with a transition and making the result available to a video editing application. For these reasons, the Board should reverse the rejection of claims 1-21 under 35 U.S.C. § 101.

Finally, Newman fails to anticipate independent claims 1 and 14 and fails to support a *prima facie* case of obviousness against independent claims 22 and 28 because Newman fails to teach or suggest *each and every* claimed element recited in Appellant's independent claims 1, 14, 22, and 28. For at least these reasons, independent claims 1, 14, 22, and 28 are patentable over Newman, and the Board

should reverse the rejection of claims 1-4, 6-8, 11-12, and 14-20 under 35 U.S.C. § 102 and the rejection of claims 22, 26-28, and 34-35 under 35 U.S.C. § 103.

Respectfully submitted,

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**VIII. CLAIMS APPENDIX**

1. (Previously Presented) A method to specify a multimedia transition, comprising:  
identifying a plurality of multimedia assets that define a transition, wherein at least one of the plurality of multimedia assets is user-supplied independent of any multimedia assets provided by a video editing application;  
identifying a source multimedia object;  
identifying a target multimedia object;  
compositing the multimedia assets that define the transition with the source and target multimedia objects to create a result; and  
making the result available for use by the video editing application.
2. (Previously Presented) The method of claim 1, wherein the act of identifying multimedia assets comprises identifying one or more of an asset movie, an asset matte movie and a background matte movie.
3. (Previously Presented) The method of claim 1, wherein the at least one user-supplied multimedia asset comprises a user-generated multimedia asset.
4. (Previously Presented) The method of claim 3, wherein the user-generated multimedia asset comprises a video clip.
5. (Previously Presented) The method of claim 3, wherein the user-generated multimedia asset comprises a user-generated matte video clip.
6. (Original) The method of claim 1, wherein the act of compositing comprises determining a transition time associated with the transition.

7. (Previously Presented) The method of claim 6, wherein the act of determining a transition time comprises querying the user for a transition time.
8. (Previously Presented) The method of claim 6, wherein the act of determining a transition time comprises interrogating a user-supplied multimedia asset to determine the transition time.
9. (Original) The method of claim 8, wherein the act of determining a transition time comprises:
  - identifying a key asset from among the plurality of multimedia assets; and
  - interrogating metadata associated with the key asset to identify a default transition time.
10. (Original) The method of claim 9, further comprising modifying the default transition time to a value selected by a user.
11. (Original) The method of claim 1, wherein the act of identifying a source multimedia object comprises identifying a first location in a first multimedia presentation.
12. (Original) The method of claim 11, wherein the act of identifying a target multimedia object comprises identifying a second location in the first multimedia presentation.
13. (Original) The method of claim 11, wherein the act of identifying a target multimedia object comprises identifying a first location in a second multimedia presentation.

14. (Previously Presented) A program storage device encoding machine readable instructions of a video editing application for causing a programmable control device to:
- identify a plurality of multimedia assets that define a transition, wherein at least one of the plurality of multimedia assets is user-supplied independent of any multimedia assets provided by the video editing application;
  - identify a source multimedia object;
  - identify a target multimedia object;
  - composite the multimedia assets that define the transition with the source and target multimedia objects to create a result; and
  - make the result available for use by the video editing application.
15. (Original) The program storage device of claim 14, wherein the instructions to identify multimedia assets comprise instructions to identify user-generated multimedia assets.
16. (Previously Presented) The program storage device of claim 14, wherein the instructions to identify multimedia assets comprise instructions to identify user-supplied video clips.
17. (Original) The program storage device of claim 14, further comprising instructions to determine a transition time associated with the transition.
18. (Original) The program storage device of claim 17, wherein the instructions to determine a transition time comprise instructions to automatically determine a transition time from a user-supplied multimedia asset.
19. (Original) The program storage device of claim 14, wherein the instructions to identify a source multimedia object comprise instructions to identify a first location in a first multimedia presentation.



20. (Original) The program storage device of claim 19, wherein the instructions to identify a target multimedia object comprise instructions to identify a second location in the first multimedia presentation.

21. (Original) The program storage device of claim 19, wherein the instructions to identify a target multimedia object comprise instructions to identify a first location in a second multimedia presentation.

22. (Previously Presented) A method for generating a user-defined transformation using a video editing application, the method comprising:  
identifying a first movie that is independent of any movie provided by the video editing application;  
identifying an x-asset key that is independent of any x-asset key provided by the video editing application, wherein the x-asset key comprises at least one second movie; and  
compositing a transformation by combining the first movie and the second movie in accordance with the x-asset key.

23. (Original) The method of claim 22,  
wherein the at least one second movie comprises an asset movie and a third movie; and  
wherein the act of compositing comprises blending the asset movie as a foreground and the first movie as a background in accordance with blending information in the third movie.

24. (Previously Presented) The method of claim 23, wherein the third movie comprises a background matte movie, a scale map movie, a displacement map movie, a luminosity map movie, a zoom-x map movie, or a zoom-y map movie.

25. (Original) The method of claim 23,  
wherein the x-asset key further comprises at least a duration parameter; and  
wherein the act of compositing comprises adjusting the lengths of the first  
movie, the asset movie and the third movie to a duration specified by the  
duration parameter.
26. (Previously Presented) A computer system for automatically generating a  
customized transition, the system comprising:  
a central processing unit (CPU);  
a memory operatively coupled to the CPU;  
a video editing application executing within the CPU and memory; and  
means for performing the method of claim 22 using the CPU and memory.
27. (Original) A machine readable medium comprising machine executable  
instructions capable of performing the method of claim 22.
28. (Previously Presented) A method for generating a user-defined transition using a  
video editing application, the method comprising:  
identifying first and second image frames that are independent of any image  
frames provided by the video editing application;  
identifying an x-asset key that is independent of any x-asset key provided by the  
video editing application, wherein the x-asset key comprises at least one  
movie; and  
compositing the first image frame, the second image frame and each frame of  
the movie in accordance with the x-asset key using the video editing  
application.

29. (Original) The method of claim 28 wherein the first image frame is the last frame of a first movie and the second image frame is the first frame of a second movie.
30. (Original) The method of claim 28,  
wherein the at least one movie comprises an asset movie including alpha channel information and a marker; and  
wherein the act of compositing comprises:  
    blending the first image frame as a background and each frame of the asset movie as a foreground in accordance with the alpha channel information before the marker is reached, and  
    blending the second image as a background and each frame of the asset movie as a foreground in accordance with the alpha channel information after the marker.
31. (Original) The method of claim 28,  
wherein the at least one movie comprises an asset movie, an asset matte movie and a background matte movie; and  
wherein the act of compositing comprises:  
    blending a portion of the first image frame as a background, the corresponding portion in a frame of the asset movie as a foreground in accordance with the corresponding alpha channel information in the asset matte movie, when the corresponding portion in the background matte movie is white, and  
    blending a portion in the second image frame as a background, the corresponding portion in a frame of the asset movie as a foreground in accordance with the corresponding alpha channel information in the asset matte movie, when the corresponding portion in the background matte movie is black.

32. (Original) The method of claim 31, wherein the act of compositing further comprising:

adjusting the length in time and size in pixels of the asset matte movie to match the asset movie if they are not the same; and  
adjusting the length in time and size in pixels of the background matte movie to match the asset movie if they are not the same.

33. (Previously Presented) The method of claim 32,  
wherein the x-asset key further comprises at least a duration parameter; and  
wherein the act of compositing further comprises adjusting the length in time of the asset movie to match the duration specified by the duration parameter.

34. (Original) A computer system for automatically generating a customized transition, the system comprising:

a central processing unit (CPU);  
a memory operatively coupled to the CPU;  
a video editing application executing within the CPU and memory; and  
means for performing the method of claim 28 using the CPU and memory.

35. (Original) A machine readable medium comprising machine executable instructions capable of performing the method of claim 28.

**IX. EVIDENCE APPENDIX**

None.

**X. RELATED PROCEEDINGS APPENDIX**

None.